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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,908	10/30/2003	Amer Hassan	M1103.70218US00	9255
45840 7590 03/21/2007 WOLF GREENFIELD (Microsoft Corporation) C/O WOLF, GREENFIELD & SACKS, P.C. FEDERAL RESERVE PLAZA 600 ATLANTIC AVENUE BOSTON, MA 02210-2206			EXAMINER TRAN, TUAN A	
			ART UNIT	PAPER NUMBER
			2618	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/21/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

10/696,908

**Applicant(s)**

HASSAN ET AL.

**Examiner**

Tuan A. Tran

**Art Unit**

2618

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 12, 15-21, 25, 28-34, 40 and 42-46 is/are rejected.
- 7) ☒ Claim(s) 7-11, 13, 14, 22-24, 26, 27, 35-39, 41 and 47-52 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

Claim 48 is objected to because of the following informalities: the phrase "The network interface card of claim 42" should be changed to "The network interface card of claim 47" for consistency. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

1. Claims 1-6, 12, 15-21, 25, 28-34, 40 and 42-46 are rejected under 35

U.S.C. 102(a) as being anticipated by Choi et al. (2002/0188723).

Regarding claim 1, Choi discloses an apparatus and method of determining an appropriate channel for a wireless device in a wireless network comprising: detecting a potential interfering signal on a frequency channel over a wireless network; retrieving data from the interfering signal to retrieve protocol identification; and prior to determining whether to transmit over the frequency channel, determining whether the identified protocol of the interfering signal is a predetermined protocol (See figs. 3, 6b, 6c and page 3 [0031-0033], page 4 [0037], page 4 [0045] to page 5 [0051]).

Regarding claim 2, Choi discloses as cited in claim 1. Choi further discloses the protocol identification information is a beacon transmitted by a generator of the interfering signal (See page 4 [0037]).

Regarding claim 3, Choi discloses as cited in claim 1. Choi further discloses the protocol identification information is located in a packet header transmitted by a generator of the potentially interfering signal (See page 4 [0037]).

Regarding claim 4, Choi discloses as cited in claim 1. Choi further discloses if the identified protocol is a predetermined protocol, interference from the potentially interfering signal is subjected to further criteria for determining whether to select an alternate frequency signal (See page 4 [0045] to page 5[0051]).

Regarding claim 5, Choi discloses as cited in claim 1. Choi further discloses if the predetermined protocol is a same protocol as a signal to be transmitted over the frequency channel, a higher level of interference is tolerated (See page 4[0045] to page 5[0051]).

Regarding claim 6, Choi discloses as cited in claim 1. Choi further discloses the predetermined protocol is described by an IEEE 802.11 protocol (See page 3 [0033]).

Regarding claim 12, Choi discloses as cited in claim 1. Choi further discloses the protocol of the potentially interfering signal is identified in a database prior to determining a threshold power level with which the wireless device could transmit on the frequency channel (See page 3 [003], page 4 [0045] to page 5 [0051]).

Claims 15-21, 25, 28-34, 40, and 42-46 are rejected for the same reasons as set forth in claims 1-6 and 12, as apparatus.

***Allowable Subject Matter***

2. Claims 7-11, 13-14, 22-24, 26-27, 35-39, 41, and 47-52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 7-11 and 13-14, Choi discloses as cited in claims 1 and 12. However, Choi does not mention that the threshold power level being a function of the protocol used by the potentially interfering signal (the identified protocol) as specified in claims 7 and 13.

Claims 22-24, 26-27, 35-39, 41, and 47-52 are objected for the same reasons as set forth in claims 7-11 and 13-14, as apparatus.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Razavilar (2003/0181211).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A. Tran whose telephone number is (571) 272-7858. The examiner can normally be reached on Mon-Fri, 10:00AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2618

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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AU 2618